

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

FOND DU LAC BAND OF LAKE  
SUPERIOR CHIPPEWA,

Plaintiff,

v.

CHERYL L. NEWTON, Acting Region 5  
Administrator – Environmental Protection  
Agency; JANE NISHIDA, Acting  
Administrator of the Environmental Protection  
Agency; and UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY,

and

COL. KARL JANSEN, District  
Engineer, St. Paul District, U.S. Army  
Corps of Engineers; JOHN E. WHITLEY,  
Acting Secretary of the Army; U.S. ARMY  
CORPS OF ENGINEERS,

Federal Defendants,

POLYMET MINING INC.,

Defendant-Intervenor.

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Case No. 19-cv-2489-PJS-LIB

**ORDER GRANTING FEDERAL  
DEFENDANTS' UNOPPOSED MOTION FOR  
VOLUNTARY REMAND OF ONE ISSUE AND STAY**

BEFORE THE COURT is Federal Defendants' Unopposed Motion for Voluntary Remand of One Issue and Stay. Upon consideration of the Motion and the materials submitted in support of that motion, the Court finds that, for good cause shown, the Federal

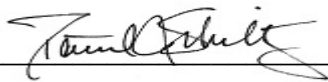
Defendants' Unopposed Motion for Voluntary Remand of One Issue and Stay will be GRANTED.

**ACCORDINGLY, IT IS HEREBY ORDERED:**

1. Federal Defendant's Motion for Voluntary Remand of One Issue and Stay is **GRANTED:**

- a. EPA is ordered to reconsider, re-review, or modify its lack of notice to the Band under Clean Water Act (CWA) Section 401(a)(2) and make a determination in light of the Court's order of February 16, 2021 (ECF No. 77).
- b. The remaining causes of action in the Band's Amended Complaint are stayed pending the outcome of EPA's determination under CWA Section 401(a)(2), including the deadline to submit a Joint Rule 26(f) Report by March 5, 2021.
- c. EPA is ordered to submit a notice to this Court ninety days after the date of this Order, reporting on the status of the proceedings on the remanded issue.

SO ORDERED on this 8th day of March, 2021.



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HON. PATRICK J. SCHILTZ  
UNITED STATES DISTRICT JUDGE